



October 31, 2017

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Mr. Samuel Unger
Los Angeles Regional Water Quality
Control Board
320 West 4th Street
Los Angeles, CA 90013-2343

And Parties, Interested Parties, and Interested Persons (See Mailing List)

Re: **Notice of Complete Joint Test Claim, Removal from Inactive Status, Schedule for Comments, Renaming of Matter, Request for Administrative Record, and Notice of Tentative Hearing Date**

Los Angeles Region Water Permit – County of Los Angeles, 13-TC-02

County of Los Angeles and Los Angeles County Flood Control District, Claimants

Dear Messrs. Gest, Howard, Lauffer, and Unger:

On June 30, 2014, the Commission on State Mandates (Commission) received a joint test claim filing submitted by the County of Los Angeles and the Los Angeles County Flood Control District (claimants) on the above-captioned matter and, on July 10, 2014, Commission staff issued a Notice of Complete Joint Test Claim Filing.

Upon further review, Commission staff found that the filing date of the Test Claim was beyond the statute of limitation because it was filed more than 12 months beyond the effective date of Order No. R4-2012-0175, effective on December 28, 2012, which was not within 12 months of the filing date of this Test Claim on June 30, 2014. On May 25 2017, Commission staff issued Notice of Incomplete Joint Test Claim Filing and notified the claimants of problems with the filing.

On September 6, 2017 and September 7, 2017, claimants filed a response with the Commission to cure the Test Claim. Upon review, Commission staff found the filing to still be incomplete. On September 22, 2017, Commission staff issued the Second Notice of Incomplete Joint Test Claim and notified the claimants of the remaining problems with the filing.

On October 23, 2017, the claimants filed a response with the Commission to cure the test claim filing. Upon review, Commission staff now finds this test claim filing to be complete and it retains the original filing date of June 30, 2014 in accordance with section 1183.1(e) of the Commission's regulations (California Code of Regulations, Title 2).

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Removal from Inactive Status

On June 17, 2014, claimant filed a request to place this matter on inactive status, which was granted. However, now that the Supreme Court has filed its decision in *Department of Finance v. Commission on State Mandates* (County of Los Angeles) (2016) 1 Cal.5th 749 and the test claim filing has been completed, this matter is removed from inactive status.

Request for Comments on the Test Claim

Parties, interested parties, and interested persons receiving this letter are requested to analyze the merits of the Test Claim and to file written comments on or before **November 30, 2017** in accordance with sections 1183.2 and 1187.5 of the Commission's regulations. Oral or written representations of fact offered by any person shall be under oath or affirmation and signed under penalty of perjury by persons who are authorized and competent to do so and must be based on the declarant's personal knowledge, information or belief. (Cal. Code. Regs., tit. 2 §§ 1183.2 and 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.¹ Please address the mandate issues raised in the test claim and specifically identify any state or federal funding or local fee authority that has been appropriated or is available to fund the costs alleged to be mandated by the state.

On August 29, 2016, the California Supreme Court filed its modified opinion in *Department of Finance v. Commission on State Mandates* (County of Los Angeles) (2016) 1 Cal.5th 749. Please include in your comments on the Test Claim, briefing regarding how that decision should apply with regard to activities that the boards assert are required to meet the maximum extent practicable (MEP) requirement of the federal Clean Water Act. Please include a discussion of how the decision applies with regard to the specific activities alleged to impose a state mandate in this case.

Claimants' Rebuttal

Claimants may file and serve rebuttals to written comments concerning this Test Claim in accordance with section 1181.3 of the Commission's regulations within 30 days of service of the written comments. (Cal. Code. Regs., tit. 2 § 1183.3.) Oral or written representations of fact offered by any person shall be under oath or affirmation and signed under penalty of perjury by persons who are authorized and competent to do so and must be based on the declarant's personal knowledge, information or belief. (Cal. Code. Regs., tit. 2 §§ 1183.3 and 1187.5.) If new written representations of fact are made, they must be supported with documentary evidence submitted with the rebuttal. (Cal. Code. Regs., tit. 2 §§ 1183.3 and 1187.5.) The Commission's ultimate findings of fact must be supported by substantial evidence in the record.²

¹ Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

² Government Code section 17559(b), which provides that a claimant or the state may commence a proceeding in accordance with the provisions of section 1094.5 of the Code of Civil Procedure to set aside a decision of the Commission on the ground that the Commission's decision is not supported by substantial evidence in the record.

Renaming of Matter

Currently, this matter is known as “*Los Angeles Region Water Permit – County of Los Angeles*” However, Commission staff is renaming this matter for ease of tracking and consistent with other stormwater NPDES permit test claims. This matter will now be designated *California Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2012-0175, 13-TC-02*. Please use this designation in all future correspondence in reference to this matter.

Request for Administrative Record

In addition, this letter is a request that the Los Angeles Regional Water Quality Control Board and the State Water Resources Control Board (as applicable) to provide copies of:

- a) The official administrative record of the California State Water Quality Control Board, Los Angeles Region permit order no. R4-2012-0175, National Pollutant Discharge Elimination System (NPDES) no. CAS004001; and
- b) The official administrative record of the California State Water Resources Control Board permit order no. R4-2012-0175, National Pollutant Discharge Elimination System (NPDES) no. CAS004001.

Specifically, the Commission requests the record that was before the boards when they adopted permit order no. R4-2012-0175/NPDES no. CAS004001 on which they based their decision with regard to the permit requirements.

Please provide these documents as soon as possible but not later than **November 30, 2017**.

Tentative Hearing Date

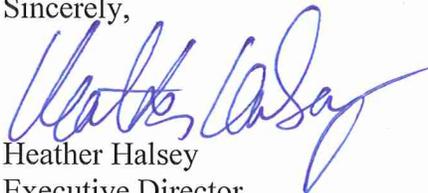
This Test Claim is tentatively set for hearing on **September 28, 2018**.

Process for Filing Comments

The Commission has prepared a mailing list of parties, interested parties, and interested persons for this test claim. The mailing list will be uploaded to the Commission’s website and an e-mail notification of its availability will be sent to everyone on the list who has provided an e-mail address. A hard copy will be provided to persons who have not provided an e-mail address and to any person who requests a hard copy. (Cal. Code. Regs., tit. 2 § 1181.4)

You are advised that if written materials are filed in hard copy, the filing must simultaneously be served on everyone on the mailing list, and be accompanied by a proof of service. However, this requirement may also be satisfied by electronically filing your documents on the Commission’s website. For instructions on electronic filing, please see the Commission’s website at http://www.csm.ca.gov/dropbox_procedures.php. The comments will be posted on the Commission’s website and the mailing list will be notified by electronic mail of the posting and the comment period. This procedure will satisfy all the service requirements under California Code of Regulations, title 2, section 1181.3.

Sincerely,



Heather Halsey
Executive Director

DECLARATION OF SERVICE BY EMAIL

I, the undersigned, declare as follows:

I am a resident of the County of Sacramento and I am over the age of 18 years, and not a party to the within action. My place of employment is 980 Ninth Street, Suite 300, Sacramento, California 95814.

On October 31, 2017, I served the:

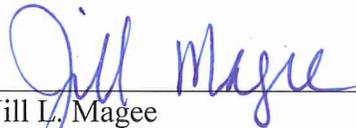
- **Notice of Complete Joint Test Claim, Removal from Inactive Status, Schedule for Comments, Renaming of Matter, Request for Administrative Record, and Notice of Tentative Hearing Date issued October 31, 2017**
- **Claimants' Response to the Second Notice of Incomplete Joint Test Claim filed October 23, 2017**
- **Joint Test Claim filed by County of Los Angeles, et al. on June 30, 2014 revised on September 6, 2017, September 7, 2017, and October 23, 2017**

California Regional Water Quality Control Board, Los Angeles Region, Order No. R4-2012-0175, 13-TC-02

County of Los Angeles and Los Angeles County Flood Control District, Claimants

by making it available on the Commission's website and providing notice of how to locate it to the email addresses provided on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, and that this declaration was executed on October 31, 2017 at Sacramento, California.



Jill L. Magee
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COMMISSION ON STATE MANDATES

Mailing List

Last Updated: 9/21/17

Claim Number: 13-TC-02

Matter: Los Angeles Region Water Permit - County of Los Angeles

Claimants: County of Los Angeles
Los Angeles County Flood Control District

TO ALL PARTIES, INTERESTED PARTIES, AND INTERESTED PERSONS:

Each commission mailing list is continuously updated as requests are received to include or remove any party or person on the mailing list. A current mailing list is provided with commission correspondence, and a copy of the current mailing list is available upon request at any time. Except as provided otherwise by commission rule, when a party or interested party files any written material with the commission concerning a claim, it shall simultaneously serve a copy of the written material on the parties and interested parties to the claim identified on the mailing list provided by the commission. (Cal. Code Regs., tit. 2, § 1181.3.)

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